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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,

No. CR 92-1-CRB-14

12 Plaintiff,

ORDER DENYING MOTION

13 v.

14 DONNELL HATCHER,

15 Defendant.
16 _____/


17 Defendant Donnell Hatcher filed a petition for the correction of his sentence. See
18 Mot. for Correction (dkt. 2444). That petition was filed in July 2016. Id. In October 2016,
19 Hatcher filed an application for leave to file a second or successive motion to vacate, set
20 aside or correct sentence pursuant to 28 U.S.C. § 2255(h). See App. for Second or
21 Successive (dkt. 2453). Hatcher filed both motions pro se. See App. for Second or
22 Successive; see Mot. for Correction. This Court determined that under 28 U.S.C. § 2255(h)
23 and 28 U.S.C. § 224(b)(3)(A), it lacked jurisdiction to consider Hatcher's October motion
24 unless and until he receives certification from the Ninth Circuit Court of Appeals. Order
25 (dkt. 2454) at 1 (citing United States v. Lopez, 577 F.3d 1053, 1056 (9th Cir. 2009)). This
26 Court transferred Hatcher's October motion to the Ninth Circuit for a determination as to
27 whether Hatcher should be permitted to proceed with the motion. Order at 1–2.

28 Hatcher's July motion raises the same issues as his October motion. See Mot. for

1 Correction; see App. for Second or Successive. Therefore, this Court presently lacks
2 jurisdiction to hear Hatcher's July motion as well. Because Hatcher's October motion
3 encompasses the issues raised in his July motion, it is unnecessary for this Court to also
4 transfer Hatcher's July motion to the United States Court of Appeals. For these reasons, the
5 Court DISMISSES Hatcher's July motion without prejudice to Hatcher's pursuing those
6 claims if the Ninth Circuit allows him to do so.

7 **IT IS SO ORDERED.**

8 Dated: December 2, 2016



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE